

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15140 of 2014

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1. Devendra Prasad Son of Late Asharfi Prasad Resident of Mahdeyan, P.S.- Meenapur, District- Muzaffarpur
 2. Upendra Singh, Son of Ramchandra Prasad Singh, Resident of Dharaiya, P.S.- Sahebganj, District- Muzaffarpur
 3. Rajesh Prasad son of Late Ram Shobit Singh, Resident of Village- Sahdullapur, P.S.- Sakra, District- Muzaffarpur
 4. Shyam Babu Prasad, Son of Shri Rajendra Prasad, Resident of Village- Chandparna, P.S.- Meenapur, District- Muzaffarpur
 5. Manoj Kumar, Son of Late Bijli Rai, Resident of Village- Repura, P.S.- Meenapur, District- Muzaffarpur
 6. Jitendra Kumar, Son of Late Nagendra Prasad, Resident of Village- Kharar, P.S.- Meenapur, District- Muzaffarpur
 7. Ram Kishore Prasad Yadav, Son of Late Ram Janam Rai, Resident of village- Dharampur, P.S.- Meenapur, District- Muzaffarpur
 8. Rajendra Prasad Yadav, Son of Late Yugeswar Rai, Resident of Rampur, Bhikhanpura, P.S.- Sahebganj, District- Muzaffarpur
 9. Ganga Ram, Son of Late- Dohaur Ram, Resident of Village- Neknama, P.S.- Siwaipatti, District- Muzaffarpur
 10. Md. Amar, Son of Late Md. Nasir, Resident of Village- Ashapatti Parsauni, P.S.- Sahebganj, District- Muzaffarpur
 11. Jitendra Kumar, Son of Shri Ram Swarup Prasad, Resident of Village- Pipra Ragho, P.S.- Sahebganj, District- Muzaffarpur
 12. Kamal Kishore, Son of Late Vishnudev Sah, Resident of Village- Jamin Mathia, P.S.- Meenapur, District- Muzaffarpur
 13. Ajad Hussain. Son of Abdul Hameed, Resident of Village- Sahpur, P.S.- Sakra, District- Muzaffarpur
 14. Mahesh Kumar, Son of Bindeshwar Prasad, Resident of Village- Karmwari, P.S.- Siwaipatti, District- Muzaffarpur
 15. Jitendra Kumar, Son of Ram Narayan Yadav, Resident of Village- Bhataulia, P.S.- Mushari, District- Muzaffarpur
 16. Pawan Kumar Shrivastava, Son of Shri Ram Swarup Lal, Resident of Village- Pipra, Ragho, P.S.- Sahebganj, District- Muzaffarpur
 17. Deepak Kumar, Son of Shri Ramswarup Prasad, Resident of Village- Pipra, Ragho, P.S.- Sahebganj, District- Muzaffarpur
 18. Shreekant Prasad Singh, Son of Late Mishri Prasad Singh, Resident of Village- Karnaul Chaturbhuj, P.S.- Sahebganj, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary-cum-Commissioner, Department of Health and Family Welfare, Government of Bihar, Patna
2. The Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur, District- Muzaffarpur
3. Civil Surgeon-cum-Member Secretary, District Health Committee, Muzaffarpur/ District Programme Manager, District Health Committee, Muzaffarpur
4. The Director-in-Chief, Health Services, Bihar, Patna
5. The Deputy Director, Health Services, Bihar, Patna
6. The Regional Deputy Director, Health Services, Tirhut Division,



Muzaffarpur

7. The Collector, Muzaffarpur

8. The Deputy Collector (Establishment), Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jagannath Singh

For the Respondent/s : Mr. Subhash Pd. Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

10 03-11-2017

Heard both sides.

I.A. No. 7696 of 2017 has been filed for deleting the names of petitioner No.6, Jitendra Kumar, petitioner No.8, Rajendra Prasad Yadav, petitioner No.10. Md. Aman, petitioner No.11, Jitendra Kumar, petitioner No.16, Pawan Kumar Srivastav, petitioner No. 17, Deepak Kumar and petitioner No.18, Srikant Prasad Singh.

Let the names of petitioners Nos. 6, 8, 10, 11, 16, 17 and 18 be deleted from the cause title of the writ petition.

The petitioners have filed this writ petition for a direction to the respondents to pay minimum wages and consider their cases for regularization of service in view of the order passed in CWJC No. 4878 of 2000 (Ashok Kumar v. the State of Bihar & Ors), disposed of on 24.09.2014.

The learned counsel for the petitioners submits that the petitioners have been working for many years and they are being paid Rs. 100/- per month. In the case of Ashok Kumar (supra) this court directed the respondents to consider the case of petitioner for payment of minimum wages and also for regularization, if possible. It is further submitted that the State of Bihar preferred L.P.A. No. 90 of 2005 against the order dated



24.09.2004 passed in CWJC No. 4878 of 2000. The L.P.A. was dismissed on 10.11.2006. The State of Bihar preferred S.L.P. (Civil) No. 1022 of 2009 before the Apex Court but the same was also dismissed on 02.02.2009. During the pendency of this writ petition, similar matter came up for consideration before a division bench of this court in L.P.A. No. 30 of 2015, arising out of CWJC No. 1218 of 2014. The writ petition was dismissed with a direction to the petitioners to approach the minimum wages authority but the division bench set aside the order and directed the respondents to dispose of the representation of the petitioners for payment of minimum wages and also to consider the case of the petitioners for their regularization in view of the law laid down in the case of Secretary, State of Karnataka & Ors. v. Uma Devi reported in (2006) 4 SCC 1. It is submitted that this case may also be disposed of in terms of the order passed in L.P.A. No. 30 of 2015.

On the contrary, the learned counsel for the State submits that a similar matter came up before this court in CWJC No. 389 of 2012 and a single bench of this court held that voluntary workers of Health Department are not entitled to be regularized. Another similar writ petition, CWJC No. 4633 of 2014, was also dismissed on the ground that petitioners of the aforesaid writ petition approached this court after inordinate delay.

Having considered the facts aforesaid and the submissions of the parties, I find that a division bench of this court in LPA No. 30 of 2015, after setting aside the order passed in CWJC No. 1218 of 2014, directed the respondents *“to examine the case of the petitioners in the light of the observations made by the writ court in the case of Ashok Kumar (supra) if it is found that petitioners are also working on remuneration which is less than*



the remuneration paid under the Minimum Wages Act, payable to them under the Minimum Wages Act the same be granted. As far as regularization of the services of the petitioners are concerned in view of the law laid down in the case of Secretary, State of Karnataka vs. Uma Devi & Ors reported in (2006) 4 SCC 1, no direction for regularization can be ordered. The petitioners will have to bring the case in the light of law laid down by the Constitution Bench in the case of Uma Devi (supra) and thereafter demand of regularization of service, in accordance with law”.

Accordingly, I dispose of the writ petition with a direction to the respondents to consider the case of petitioners in the light of directions given by the division bench in LPA No. 30 of 2015.

(Prabhat Kumar Jha, J)

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